

1 facility may have resulted from one or more of the following:
2 leaking underground tanks and/or pipelines, and/or surface
3 spills.

4 B. Enforcement History

5 1. By February 1989, general notice letters had been sent
6 by EPA to thirty-four (34) potentially responsible parties,
7 including each of the Respondents, with the exception of the
8 Antonini Family Trust.

9 2. In accordance with CERCLA Section 122, 42 U.S.C. §
10 9622, EPA issued thirty-two (32) special notice letters to
11 potentially responsible parties. Respondents received special
12 notice letters in May 1989, with the exception of the Antonini
13 Family Trust, which received a special notice letter in July
14 1989. The statutory deadline of sixty days for the potentially
15 responsible parties to make a proposal to undertake or finance
16 the remedial action, contained in CERCLA Section 122(e)(2)(B),
17 was extended by EPA at the request of numerous potentially
18 responsible parties. By the extended deadline, EPA received good
19 faith offers to undertake or finance part of the interim remedial
20 action from four potentially responsible parties. Good faith
21 offers were not received from any of the Respondents.

22 3. On or about March 25, 1992, the Federal District Court
23 for the Central District of California entered a Consent Decree
24 (the "Decree") signed by EPA, the Lockheed Corporation ("Lock-
25 heed"), the City of Burbank (the "City") and Weber Aircraft, Inc.
26 ("Weber"), under which Lockheed and the City agreed to implement,
27 and Lockheed, the City and Weber agreed to finance, a portion of
28 the interim remedial action specified in the ROD and ESD. The

1 Decree was entered pursuant to CERCLA Section 122, 42 U.S.C. §
2 9622; it is attached hereto as Attachment B and incorporated
3 herein by reference. Section VII, Subpart F of the Decree
4 included some minor modifications to the interim remedy. The
5 Consent Decree does not cover the design, construction or
6 nonroutine maintenance of the blending facility for nitrate,
7 related water transport and receiving facilities, and certain
8 monitoring. These activities are required to be performed
9 pursuant to this Order. The United States took public comment on
10 the Decree and submitted all comments received and its reply to
11 such comments to the Federal District Court prior to the entry of
12 the Decree by the Court.

13 C. Endangerment to Human Health and the Environment

14 1. Concentrations of volatile organic compounds ("VOCs")
15 exceeding State Action Levels ("SALs") and Federal Maximum
16 Contaminant Levels ("MCLs") were first discovered in the Basin in
17 1980. Since that time, EPA and the State have conducted soil and
18 groundwater sampling in the Burbank area. Presently, VOC family
19 members trichloroethene ("TCE") and tetrachloroethene ("PCE")
20 have been found in the Burbank Well Field at levels that exceed
21 the SALs and MCLs for these hazardous substances.

22 2. The maximum concentrations of TCE and PCE found in the
23 City's Public Service Department ("PSD") wells were 1,800
24 micrograms per liter ("µg/L") and 590 µg/L, respectively. The
25 MCL and SAL for both TCE and PCE is 5 µg/L. Several other VOCs
26 have been detected at levels below MCLs in the Burbank PSD wells,
27 including acetone, toluene, methyl ethyl ketone ("MEK"), carbon
28 tetrachloride, and trihalomethanes. Because TCE and PCE have

1 | been identified as the chemicals of primary concern at the Site,
2 | the endangerment information provided here focuses on these two
3 | hazardous substances. Some of the other hazardous substances
4 | found at the Site are also listed.

5 | a. Based upon evidence of animal carcinogenicity and
6 | preliminary data on human subjects, EPA has determined that TCE
7 | and PCE are probable human carcinogens.

8 | b. Trichloroethene ("TCE"). TCE is a central nervous
9 | system depressant following acute or chronic exposure.
10 | Industrial use of TCE may also result in dermatitis from exposure
11 | to vapors of concentrated solvent. In mice, an increased inci-
12 | dence of hepatocellular carcinomas was reported following oral
13 | administration of TCE.

14 | c. Tetrachloroethene ("PCE"). PCE results in an
15 | increased incidence of hepatocellular carcinoma in mice. Toxic
16 | effect in humans and animals from both acute and chronic exposure
17 | to PCE include central nervous system depression, and liver and
18 | kidney damage.

19 | d. Dichloroethene ("DCE"). DCE has been reported to
20 | significantly increase the incidence of kidney tumors in male
21 | mice. DCE is mutagenic and has caused adverse reproductive
22 | effects in rats and rabbits. Chronic exposure to DCE causes
23 | liver damage, and acute exposure to high doses produces nervous
24 | system damage. EPA has classified DCE as a possible human
25 | carcinogen. EPA has established a drinking water MCL of 7 ppb and
26 | the State of California has established a State MCL of 6 ppb for
27 | 1,1-DCE.

28 | e. Trichloroethane ("TCA"). TCA has been associated

1 with central nervous system depression and cardiovascular
2 effects, including premature ventricular contractions and
3 arrhythmias from exposure to high levels. EPA has established a
4 drinking water MCL of 200 ppb for 1,1,1-TCA.

5 f. Chloroform. Chloroform has been reported to cause
6 an increase in kidney epithelial tumors in rats and
7 hepatocellular tumors in mice. Evidence from human
8 epidemiological studies suggests that exposure to chloroform in
9 water supplies may be associated with increased incidences of
10 bladder, colon, and rectal tumors. Acute exposure to high
11 concentrations of chloroform in humans may result in death caused
12 by ventricular fibrillation. Chronic exposure to lower
13 concentrations may lead to hepatic, renal, and cardiac effects,
14 and central nervous system depression. EPA has classified
15 chloroform as a probable human carcinogen. EPA has established a
16 drinking water MCL of 100 ppb for total trihalomethanes
17 (chloroform is one of the four trihalomethanes included in this
18 regulation).

19 3. The first closures of the City's PSD wells due to
20 groundwater contamination occurred in 1985. By 1991, all of the
21 City's wells had been taken out of service due to high levels of
22 TCE and PCE in the water at the Site. The plume of contamination
23 continues to spread toward downgradient production wells operated
24 by the Cities of Glendale and Los Angeles, threatening these
25 public drinking water sources. The interim remedial action is
26 necessary to inhibit the further migration of contamination.

27 4. There have been releases of hazardous substances from
28 each of the facilities listed in Paragraph II.A.12, above, into

1 the soil and groundwater at the Site. There continue to be
2 releases and the threat of releases from each of these facilities
3 into the groundwater at the Site. Hazardous substances from each
4 of the referenced facilities have commingled at the Site, forming
5 a mass of contaminated groundwater (the "Burbank Operable Unit
6 Plume"). The Burbank Operable Unit Plume contains hazardous
7 substances that continue to release and/or that threaten further
8 releases into the environment in the area of the Site through
9 migration of the plume.

10 5. The releases and the threat of releases at the Site
11 may present an imminent and substantial endangerment to public
12 health due to the contamination of groundwater in the area,
13 including contamination of the City's drinking water supply, as
14 well as the threat of contamination of the water supplies of the
15 Cities of Glendale and Los Angeles, located downgradient of the
16 City of Burbank's supply wells. If remedial action is not taken,
17 these residents may be exposed to contaminated groundwater at or
18 from the Burbank Operable Unit Plume through ingestion of,
19 inhalation of, and dermal contact with contaminated water. Each
20 of these pathways represents a distinct risk to public health.
21 The residents of the Cities of Glendale and Los Angeles also face
22 the threat of future exposure through similar routes if the
23 selected interim action is not implemented.

24 6. The releases and threat of releases at the Site may
25 also present an imminent and substantial endangerment to the
26 environment in the area of the Site because of the ongoing
27 releases and/or threat of releases from the Plume. Without the
28 institution of the interim remedial action, the ecosystem in the

1 area of the Site is threatened by the potential exposure to
2 extracted, untreated water, which may reach areas of ecological
3 concern, including the Los Angeles River.

4 III. CONCLUSIONS OF LAW

5 A. The Burbank OU Site, and each facility described in
6 Paragraph II.A.12 above, is a "facility" as that term is defined
7 in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

8 B. Each Respondent is a "person" as defined in Paragraph
9 101(21) of CERCLA, 42 U.S.C. § 9601(21).

10 C. Each of the Respondents is a "liable person" within the
11 meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3),
12 and is subject to this Order pursuant to Section 106(a) of
13 CERCLA, 42 U.S.C. § 9606(a).

14 D. The substances listed in Paragraph II.C.2 are "hazardous
15 substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §
16 9601(14).

17 E. There have been and continue to be "releases" and the
18 threat of "releases" of hazardous substances, within the meaning
19 of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), into the
20 environment from each of the facilities referenced in Paragraph
21 II.A.12. The hazardous substances released from these facilities
22 have become commingled in the groundwater plume in such a way as
23 to represent an indivisible injury.

24 F. There have been and continue to be "releases" and the
25 threat of "releases" within the meaning of Section 101(22) of
26 CERCLA, 42 U.S.C. § 9601(22), of hazardous substances listed in
27 Paragraphs II.C.2 from the Site into the environment surrounding
28 the Plume. The continued migration of hazardous substances from

1 the Site constitutes a "release," within the meaning of CERCLA
2 Section 101(22), 42 U.S.C. § 9601(22).

3 IV. DETERMINATIONS

4 A. Based on the Findings of Fact and Conclusions of Law, the
5 Director of the Hazardous Waste Management Division, EPA Region
6 IX, hereby determines that the release and/or threat of release
7 of one or more hazardous substances from and within the Site may
8 present an imminent and substantial endangerment to public
9 health, welfare or the environment. The groundwater
10 contamination at this Site and the resulting endangerment
11 constitute an indivisible injury.

12 B. The remedial measures required by this Order, if
13 performed in accordance with the requirements of this Order, are
14 necessary to protect the public health, welfare and the
15 environment.

16 C. The remedial measures required by this Order are
17 consistent with CERCLA and the NCP.

18 V. NOTICE TO THE STATE

19 Prior to issuing this order, EPA notified the State of
20 California, California Environmental Protection Agency pursuant
21 to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), of EPA's intent
22 to issue this Order.

23 VI. ORDER

24 Based on the foregoing, Respondents are hereby ordered to
25 comply with the following provisions, including but not limited
26 to all requirements, schedules and deadlines contained in this
27 Order, incorporated into this Order by reference, submitted or
28 prepared by Respondents and approved by EPA pursuant to this

1 Order or issued or modified by EPA pursuant to this Order:

2 VII. DEFINITIONS

3 Unless otherwise expressly provided herein, terms used in
4 this Order which are defined in CERCLA or in regulations promul-
5 gated under CERCLA shall have the meaning assigned to them in the
6 statute or its implementing regulations. Whenever terms listed
7 below are used in this Order or in the documents attached to this
8 Order or incorporated by reference into this Order (other than
9 the Consent Decree, including all of its appendices, attached as
10 Attachment B), the definitions which follow shall apply. Any
11 word used in the Consent Decree that is defined in the Decree,
12 shall have the meaning provided for it in the Decree when used in
13 the Decree.

14 A. "Burbank Well Field" or "Well Field" shall mean the area
15 within the political boundaries of the City encompassing Burbank
16 Public Service Department wells 6A, 7, 10, 11A, 12, 13A, 14A, 15,
17 17, and 18, as shown on Appendix C to the Decree, which is
18 incorporated herein as Attachment B. (This Appendix contains
19 corrections to the well numbers shown in Figure 2 of the ESD).

20 B. "CERCLA" shall mean the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980, as amended, 42
22 U.S.C. §§ 9601 et seq.

23 C. "City" shall mean the City of Burbank, California, a
24 charter city, and any of its divisions, departments and other
25 subdivisions. "City" shall not include any joint powers authori-
26 ty of which the City of Burbank is a member.

27 D. "Consent Decree" or "Decree" shall mean the Consent
28 Decree entered by the Federal District Court for the Central

District of California on or about March 25, 1992 in Case No. CV 91-4527 MRP(Tx), United States v. Lockheed Corporation, Inc. et al.

The Decree, including all of its Appendices is attached hereto as Attachment B and is incorporated herein by reference.

E. "Day" shall mean a calendar day, unless expressly stated to be a working day; provided, however, that in computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

F. "Environment" shall have the meaning set forth in CERCLA Section 101(8), 42 U.S.C. § 9601(8).

G. "EPA" shall mean the United States Environmental Protection Agency.

H. "Explanation of Significant Differences" ("ESD") shall mean the document signed by the EPA Region IX Regional Administrator on November 21, 1990 which modifies the ROD and is attached as Appendix B to the Consent Decree.

I. "Fund" or "Superfund" shall mean the Hazardous Substance Superfund, referenced in Section 111 of CERCLA, 42 U.S.C. § 9611.

J. "Lockheed" shall mean the Lockheed Corporation, incorporated in the state of Delaware, and any of its subsidiaries, parents, affiliates, predecessors and successors.

K. "National Contingency Plan" or "NCP" shall mean the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

L. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.

M. "Performance Standards" shall mean those cleanup

standards, standards of control, and other substantive requirements, criteria or limitations, identified in the ROD, ESD and this Order, that the Work required by this Order must attain and maintain.

N. "Point of Delivery" shall mean the physical point of transfer of the groundwater treated by Lockheed from Lockheed to the City. For the purposes of this Order, such transfer shall take place at the downstream flange of a meter that is located between the groundwater Treatment Plant built by Lockheed and the Valley Forebay Facility and is used to measure the quantity of water to be transferred, as depicted in Appendix E to the Decree.

O. "Point of Interconnection" shall mean the physical point of transfer of the groundwater treated by Lockheed after it goes through the booster station but before it enters the blending facilities to be constructed pursuant to this Order. For purposes of this Order, such transfer shall take place at the upstream flange of a water meter located on a pipeline between the booster station and the blending facilities and used to measure the quantity of water to be transferred, as depicted in Appendix E to the Decree.

P. "Point of MWD Connection" shall mean the physical point of transfer of the Metropolitan Water District ("MWD") blending water from the MWD pipeline to the blending facilities to be constructed pursuant to this Order. For the purposes of this Order, such transfer shall take place at the downstream flange of a meter that is located between the MWD pipeline and the blending facilities and is used to measure the quantity of water to be transferred, as depicted in Appendix E to the Decree.

1 Q. "Point of Water System Introduction" shall mean the
2 physical point of transfer of the blended water from the blending
3 facilities to be constructed pursuant to this Order to the City's
4 public water supply distribution system. For the purposes of
5 this Order, such transfer shall take place at the downstream
6 flange of a valve located on the pipeline between the blending
7 facilities and the City's public water supply distribution
8 system, as depicted in Appendix E to the Decree.

9 R. "Record of Decision" ("ROD") shall mean the document
10 signed on June 30, 1989, by the EPA Region IX Deputy Regional Ad-
11 ministrator, acting for the Regional Administrator, which is
12 attached as Appendix A to the Decree.

13 S. "Release" shall have the meaning set forth in CERCLA
14 Section 101(22), 42 U.S.C. § 9601(22).

15 T. "Remedial Action Work" shall mean those activities to be
16 undertaken by Respondents to implement the final plans and
17 specifications submitted by Respondents pursuant to the Remedial
18 Design Work Plan approved by EPA pursuant to Section X (Work To
19 Be Performed) of this Order. The Remedial Action Work does not
20 constitute all of the interim remedial action selected in the ROD
21 (as modified by the ESD).

22 U. "Remedial Design Work" shall mean the phase of the Work
23 required by this Order wherein, consistent with the ROD (as
24 modified by the ESD), this Order and the National Contingency
25 Plan, 40 C.F.R. Section 300 et seq. ("NCP"), the engineering
26 plans and technical specifications are to be developed by Respon-
27 dents for approval by EPA, and on which implementation of the
28 Remedial Action Work shall be based.

1 V. "Respondents" shall mean those parties listed as such in
2 Subpart I.C of this Order.

3 W. "Section" shall mean a portion of this Order identified
4 by a Roman numeral.

5 X. "Site" (when capitalized) or "Burbank Operable Unit Site"
6 shall mean the areal extent of TCE and/or PCE groundwater contam-
7 ination that is presently located in the vicinity of the Burbank
8 Well Field and including any areas to which such groundwater
9 contamination migrates.

10 Y. "State" (when capitalized) shall mean the State of
11 California.

12 Z. "Subpart" shall mean a portion of this Order identified
13 by a capital letter.

14 AA. "United States" shall mean the United States of America.

15 AB. "Valley Forebay Facility" shall mean the structure owned
16 by the City and designated to receive the water treated by
17 Lockheed as a regulating reservoir for the booster station
18 depicted in Appendix E to the Decree. The reservoir has an
19 overflow elevation of 655 feet.

20 AC. "Weber" shall mean Weber Aircraft, Inc., incorporated in
21 the state of Delaware, and any of its subsidiaries, parents,
22 affiliates, predecessors and successors.

23 AD. "Work" shall mean the performance of the Remedial Design
24 Work and the Remedial Action Work in a manner which accomplishes
25 all of the requirements of Section X (Work To Be Performed) of
26 this Order.

27 AE. "Working Day" shall mean a day other than a Saturday,
28 Sunday, or federal or State holiday.